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# UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF VIRGINIA

13-32806

### CHAPTER 13 PLAN AND RELATED MOTIONS

Name of Debtor(s):	Heather L. Phelps	Case No:
Γhis plan, dated Ma	<b>y 15, 2013</b> , is:	
	the <i>first</i> Chapter 13 plan filed in this case. a modified Plan, which replaces the	
	Date and Time of Modified Plan Confirming Hearing:	
	Place of Modified Plan Confirmation Hearing:	
The P	Plan provisions modified by this filing are:	
Credi	tors affected by this modification are:	

NOTICE: YOUR RIGHTS WILL BE AFFECTED. You should read these papers carefully. If you oppose any provision of this Plan, or if you oppose any included motions to (i) value collateral, (ii) avoid liens, or (iii) assume or reject unexpired leases or executory contracts, you MUST file a timely written objection.

This Plan may be confirmed and become binding, and the included motions in paragraphs 3, 6, and 7 to value collateral, avoid liens, and assume or reject unexpired leases or executory contracts may be granted, without further notice or hearing unless a written objection is filed not later than seven (7) days prior to the date set for the confirmation hearing and the objecting party appears at the confirmation hearing.

The debtor(s)' schedules list assets and liabilities as follows:

Total Assets: \$483,101.64

Total Non-Priority Unsecured Debt: \$197,465.00

Total Priority Debt: **\$0.00**Total Secured Debt: **\$458,641.00** 

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- 1. Funding of Plan. The debtor(s) propose to pay the trustee the sum of \$150.00 Monthly for 1 month, then \$620.00 Monthly for 59 months. Other payments to the Trustee are as follows: NONE . The total amount to be paid into the plan is \$ 36,730.00 .
- 2. **Priority Creditors.** The Trustee shall pay allowed priority claims in full unless the creditor agrees otherwise.
  - A. Administrative Claims under 11 U.S.C. § 1326.
    - 1. The Trustee will be paid the percentage fee fixed under 28 U.S.C. § 586(e), not to exceed 10%, of all sums disbursed except for funds returned to the debtor(s).
    - 2. Debtor(s)' attorney will be paid \$ **281.00** balance due of the total fee of \$ **3,000.00** concurrently with or prior to the payments to remaining creditors.
  - B. Claims under 11 U.S.C. §507.

The following priority creditors will be paid by deferred cash payments pro rata with other priority creditors or in monthly installments as below, except that allowed claims pursuant to 11 U.S.C. § 507(a)(1) will be paid prior to other priority creditors but concurrently with administrative claims above:

<u>Creditor</u> Commonwealth of VA-Tax	Type of Priority  Taxes and certain other debts	Estimated Claim 0.00	Payment and Term Prorata
Internal Revenue Service	Taxes and certain other debts	0.00	0 months Prorata
			0 months

- 3. Secured Creditors: Motions to Value Collateral ("Cramdown"), Collateral being Surrendered, Adequate Protection Payments, and Payment of certain Secured Claims.
  - A. Motions to Value Collateral (other than claims protected from "cramdown" by 11 U.S.C. § 1322(b)(2) or by the final paragraph of 11 U.S.C. § 1325(a)). Unless a written objection is timely filed with the Court, the Court may grant the debtor(s)' motion to value collateral as set forth herein.

This section deals with valuation of certain claims secured by real and/or personal property, other than claims protected from "cramdown" by 11 U.S.C. § 1322(b)(2) [real estate which is debtor(s)' principal residence] or by the final paragraph of 11 U.S.C. § 1325(a) [motor vehicles purchased within 910 days or any other thing of value purchased within 1 year before filing bankruptcy], in which the replacement value is asserted to be less than the amount owing on the debt. Such debts will be treated as secured claims only to the extent of the replacement value of the collateral. That value will be paid with interest as provided in sub-section D of this section. You must refer to section 3(D) below to determine the interest rate, monthly payment and estimated term of repayment of any "crammed down" loan. The deficiency balance owed on such a loan will be treated as an unsecured claim to be paid only to the extent provided in section 4 of the Plan. The following secured claims are to be "crammed down" to the following values:

<u>Creditor</u> <u>Collateral</u> <u>Purchase Date</u> <u>Est Debt Bal.</u> <u>Replacement Value</u> -NONE-

### B. Real or Personal Property to be Surrendered.

Upon confirmation of the Plan, or before, the debtor(s) will surrender his/her/their interest in the collateral securing the claims of the following creditors in satisfaction of the secured portion of such creditors' allowed claims. To the extent that the collateral does not satisfy the claim, any timely filed deficiency claim to which the creditor is entitled may be paid as a non-priority unsecured claim. Confirmation of the Plan shall terminate the automatic stay as to the interest of the debtor(s) and the estate in the collateral.

<u>Creditor</u> <u>-NONE-</u> <u>Estimated Value</u> <u>Estimated Total Claim</u>

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### C. Adequate Protection Payments.

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The debtor(s) propose to make adequate protection payments required by 11 U.S.C. § 1326(a) or otherwise upon claims secured by personal property, until the commencement of payments provided for in sections 3(D) and/or 6(B) of the Plan, as follows:

Creditor

Collateral Description

Adeq. Protection Monthly Payment

To Be Paid By

-NONE-

Any adequate protection payment upon an unexpired lease of personal property assumed by the debtor(s) pursuant to section 6(B) of the Plan shall be made by the debtor(s) as required by 11 U.S.C. § 1326(a)(1)(B) (payments coming due after the order for relief).

D. Payment of Secured Claims on Property Being Retained (except only those loans provided for in section 5 of the Plan):

This section deals with payment of debts secured by real and/or personal property [including short term obligations, judgments, tax liens and other secured debts]. After confirmation of the Plan, the Trustee will pay to the holder of each allowed secured claim, which will be either the balance owed on the indebtedness or, where applicable, the collateral's replacement value as specified in sub-section A of this section, **whichever is less**, with interest at the rate provided below, the monthly payment specified below until the amount of the secured claim has been paid in full. **Upon confirmation of the Plan**, the valuation and interest rate shown below will be binding unless a timely written objection to confirmation is filed with and sustained by the Court.

Creditor

Collateral

Approx. Bal. of Debt or "Crammed Down" Value

Interest Rate

Monthly Paymt & Est. Term\*\*

-NONE-

### E. Other Debts.

Debts which are (i) mortgage loans secured by real estate which is the debtor(s)' primary residence, or (ii) other long term obligations, whether secured or unsecured, to be continued upon the existing contract terms with any existing default in payments to be cured pursuant to 11 U.S.C. § 1322(b)(5), are provided for in section 5 of the Plan.

#### 4. Unsecured Claims.

- A. Not separately classified. Allowed non-priority unsecured claims shall be paid pro rata from any distribution remaining after disbursement to allowed secured and priority claims. Estimated distribution is approximately 10%. The dividend percentage may vary depending on actual claims filed. If this case were liquidated under Chapter 7, the debtor(s) estimate that unsecured creditors would receive a dividend of approximately 6.05%.
- B. Separately classified unsecured claims.

Creditor -NONE- **Basis for Classification** 

Treatment

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- 5. Mortgage Loans Secured by Real Property Constituting the Debtor(s)' Primary Residence; Other Long Term 2 8 0 6 Payment Obligations, whether secured or unsecured, to be continued upon existing contract terms; Curing of any existing default under 11 U.S.C. § 1322(b)(5).
  - A. Debtor(s) to make regular contract payments; arrears, if any, to be paid by Trustee. The creditors listed below will be paid by the debtor(s) pursuant to the contract without modification, except that arrearages, if any, will be paid by the Trustee either pro rata with other secured claims or on a fixed monthly basis as indicated below, without interest unless an interest rate is designated below for interest to be paid on the arrearage claim and such interest is provided for in the loan agreement.

<u>Creditor</u> Pnc Mortgage	Collateral Location: 14140 Grangewood Rd., Midlothian VA 23113	Regular Contract Payment <b>4,000.00</b>	Estimated Arrearage 18,000.00	Arrearage Interest Rate 0%	Estimated Cure Period 33 months	Monthly Arrearage Payment Prorata
Vw Credit Inc	Current Market - \$455,300 (as of 3/27/13)  Tax Assessment - \$500,600  Zillow Range - \$421,000 - \$642,000  2006 Volkswagon New Beetle 107,000 Miles PAY DIRECT	340.00	0.00	0%	0 months	

**B.** Trustee to make contract payments and cure arrears, if any. The Trustee shall pay the creditors listed below the regular contract monthly payments that come due during the period of this Plan, and pre-petition arrearages on such debts shall be cured by the Trustee either pro rata with other secured claims or with monthly payments as set forth below.

Creditor	Collateral	Regular Contract <u>Payment</u>	Estimated Interest Arrearage Rate	Term for Arrearage	Monthly Arrearage Payment
-NONE-					

C. Restructured Mortgage Loans to be paid fully during term of Plan. Any mortgage loan against real estate constituting the debtor(s)' principal residence upon which the last scheduled contract payment is due before the final payment under the Plan is due shall be paid by the Trustee during the term of the Plan as permitted by 11 U.S.C. § 1322(c)(2) with interest at the rate specified below as follows:

		Interest	Estimated	
Creditor	<u>Collateral</u>	Rate	Claim	Monthly Paymt& Est. Term**
-NONE-				

- **6. Unexpired Leases and Executory Contracts.** The debtor(s) move for assumption or rejection of the executory contracts and leases listed below.
  - **A. Executory contracts and unexpired leases to be rejected.** The debtor(s) reject the following executory contracts.

Creditor	Type of Contract
-NONE-	

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**B.** Executory contracts and unexpired leases to be assumed. The debtor(s) assume the following executory 2 8 0 6 contracts. The debtor agrees to abide by all terms of the agreement. The Trustee will pay the pre-petition arrearages, if any, through payments made pro rata with other priority claims or on a fixed monthly basis as indicated below.

Monthly
Payment Estimated
Creditor
-NONE
Monthly
Payment Estimated
for Arrears
Cure Period

- 7. Liens Which Debtor(s) Seek to Avoid.
  - A. The debtor(s) move to avoid liens pursuant to 11 U.S.C. § 522(f). The debtor(s) move to avoid the following judicial liens and non-possessory, non-purchase money liens that impair the debtor(s)' exemptions. Unless a written objection is timely filed with the Court, the Court may grant the debtor(s)' motion and cancel the creditor's lien. If an objection is filed, the Court will hear evidence and rule on the motion at the confirmation hearing.

Creditor<br/>Pnc MortgageCollateral<br/>Location: 14140 GrangewoodExemption Amount<br/>NoneValue of Collateral<br/>455,300.00

Rd., Midlothian VA 23113

Current Market - \$455,300 (as of

3/27/13)

Tax Assessment - \$500,600 Zillow Range - \$421,000 -

\$642,000

**B.** Avoidance of security interests or liens on grounds other than 11 U.S.C. § 522(f). The debtor(s) have filed or will file and serve separate pleadings to avoid the following liens or security interests. The creditor should review the notice or summons accompanying such pleadings as to the requirements for opposing such relief. The listing here is for information purposes only.

<u>Creditor</u> <u>Type of Lien</u> <u>Description of Collateral</u> <u>Basis for Avoidance</u>

- 8. Treatment and Payment of Claims.
  - All creditors must timely file a proof of claim to receive payment from the Trustee.
  - If a claim is scheduled as unsecured and the creditor files a claim alleging the claim is secured but does not timely object to confirmation of the Plan, the creditor may be treated as unsecured for purposes of distribution under the Plan. This paragraph does not limit the right of the creditor to enforce its lien, to the extent not avoided or provided for in this case, after the debtor(s) receive a discharge.
  - If a claim is listed in the plan as secured and the creditor files a proof of claim alleging the claim is unsecured, the creditor will be treated as unsecured for purposes of distribution under the Plan.
  - The Trustee may adjust the monthly disbursement amount as needed to pay an allowed secured claim in full.
- **9. Vesting of Property of the Estate.** Property of the estate shall revest in the debtor(s) upon confirmation of the Plan. Notwithstanding such vesting, the debtor(s) may not sell, refinance, encumber real property or enter into a mortgage loan modification without approval of the Court after notice to the Trustee, any creditor who has filed a request for notice and other creditors to the extent required by the Local Rules of this Court.
- **10. Incurrence of indebtedness.** The debtor(s) shall not voluntarily incur additional indebtedness exceeding the cumulative total of \$5,000 principal amount during the term of this Plan, either unsecured or secured against personal property, except upon approval of the Court after notice to the Trustee, any creditor who has filed a request for notice, and other creditors to the extent required by the Local Rules of this Court.
- 11. Other provisions of this plan:

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Signatures:		13-32806
Dated: May	15, 2013	
/s/ Kevin A. Phe	•	/s/ Christopher M. Winslow Christopher M. Winslow 76156
Debtor	•	Debtor's Attorney
/s/ Heather L. Phe Heather L. Phe Joint Debtor		
Exhibits:	Copy of Debtor(s)' Budget (So Matrix of Parties Served with	
I certify that on _	<b>May 15, 2013</b> , I mailed a cop	Certificate of Service of the foregoing to the creditors and parties in interest on the attached Service List.
	/s/ (	ristopher M. Winslow
	Chr	topher M. Winslow 76156
	Sign	ture
	Mid	Sycamore Sq. Suite 202 C thian, VA 23113
	Add	ess
	804	23-1382
	Tele	hone No.

Ver. 09/17/09 [effective 12/01/09]

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## United States Bankruptcy Court Eastern District of Virginia

13-32806

In re		a A. Phelps her L. Phelps			Case No.	
	ricati	or E. i noips	Debt	or(s)	Chapter	13
		SPECIAL NOTI	CE TO SE	CURED CR	EDITOR	
То:		ortgage ain St; Dayton, OH 45402				
		of creditor				
	Locati	on: 14140 Grangewood Rd., Midlothian	VA 23113			
	Tax As	nt Market - \$455,300 (as of 3/27/13) ssessment - \$500,600 Range - \$421,000 - \$642,000				
		ption of collateral				
1.	The at	tached chapter 13 plan filed by the debtor	(s) proposes (	check one):		
		To value your collateral. <i>See Section 3</i> amount you are owed above the value of				
		To cancel or reduce a judgment lien or a <b>Section 7 of the plan.</b> All or a portion				
	posed re	hould read the attached plan carefully for elief granted, <u>unless</u> you file and serve a wr objection must be served on the debtor(s), t	itten objectio	n by the date spe	ecified and appear	
	Date	objection due:				
	Date	and time of confirmation hearing:				
	Place	of confirmation hearing:				
				Kevin A. Phel		
				Name(s) of dea		
			By:	/s/ Christophe	er M. Winslow	
				Christopher N	1. Winslow 761	56
				Signature		
				Debtor(s)' A		
				FIO se debio	)1	
					<b>M. Winslow 761</b> ney for debtor(s)	
				1324 Sycamo	re Sq. Suite 202	
				Midlothian, V. Address of atta	<b>A 23113</b> orney [or pro se	debtor]
				•	123-1382	-
				1011	123-1382 123-1383	

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### CERTIFICATE OF SERVICE

13-32806

•	certify that true copies of the foregoing Notice and attached Chapter 13 Plan and Related Motions were served upon the noted above by
	irst class mail in conformity with the requirements of Rule 7004(b), Fed.R.Bankr.P; or
	certified mail in conformity with the requirements of Rule 7004(h), Fed.R.Bankr.P
on this _	May 15, 2013
	/s/ Christopher M. Winslow
	Christopher M. Winslow 76156 Signature of attorney for debtor(s)

Ver. 09/17/09 [effective 12/01/09]

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B6I (Official Form 6I) (12/07)

Kevin A. Phelps

In re Heather L. Phelps

13 - 32806 Case No.

Debtor(s)

### SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS	OF DEBTOR A	ND SPC	OUSE		
Married	RELATIONSHIP(S):  Daughter  Son  Daughter  Daughter  Daughter	AC	E(S): 1995 1997 2000 2004	, )		
Employment:	DEBTOR			SPOUSE		
Occupation	Vet.	Sales As	sociat	e		
Name of Employer	SPCA	Ellman's	Inc.			
How long employed	4/24/13	8/12				
Address of Employer	2515 Hermitage Road Richmond, VA 23220	3339 W. Richmor				
	ge or projected monthly income at time case filed)			DEBTOR		SPOUSE
1. Monthly gross wages, salary	y, and commissions (Prorate if not paid monthly)		\$	5,835.48	\$	507.61
2. Estimate monthly overtime			\$	0.00	\$	0.00
3. SUBTOTAL			\$	5,835.48	\$	507.61
4. LESS PAYROLL DEDUCT						
<ul> <li>a. Payroll taxes and socia</li> </ul>	al security		\$	1,039.09	\$	0.00
b. Insurance			\$	734.50	\$	0.00
c. Union dues			\$	0.00	\$_	0.00
d. Other (Specify):			\$	0.00	\$ _	0.00
,			\$	0.00	\$ <u> </u>	0.00
5. SUBTOTAL OF PAYROLI	DEDUCTIONS		\$	1,773.59	\$	0.00
6. TOTAL NET MONTHLY T	TAKE HOME PAY		\$	4,061.89	\$	507.61
7. Regular income from operat	cion of business or profession or farm (Attach detailed sta	tement)	\$	0.00	\$	0.00
8. Income from real property			\$	0.00	\$	0.00
9. Interest and dividends			\$	0.00	\$	0.00
dependents listed above	support payments payable to the debtor for the debtor's us	e or that of	\$	0.00	\$	0.00
11. Social security or governm (Specify):	ent assistance		\$	0.00	\$	0.00
			\$	0.00	<u>\$</u> —	0.00
12. Pension or retirement income	me		\$	0.00	\$	0.00
•	Job \$600 Week Gross \$513.84		\$	2,226.64	\$	0.00
Amortize	d Tax Refund - They do not get a refund		\$	1.00	\$ <u></u>	0.00
14. SUBTOTAL OF LINES 7	THROUGH 13		\$	2,227.64	\$	0.00
15. AVERAGE MONTHLY II	NCOME (Add amounts shown on lines 6 and 14)		\$	6,289.53	\$_	507.61
16. COMBINED AVERAGE	MONTHLY INCOME: (Combine column totals from line	e 15)		\$	6,797	.14

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data) Case 13-32806-KLP Doc 2 Filed 05/20/13 Entered 05/20/13 18:44:43 Desc Main Document Page 10 of 13

B6I (Official Form 6I) (12/07)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

Debtor does not expect any changes in income or expenses. Husband no longer works at Drs. Anthony, Nofzinger & Phelps. He just started new employment making approx. \$70,000 per year and a part time job making \$600 weekly.

Taxes listed on form 22c reflect expected tax witholding for new employment.

Husband was forced to transfer stock ownership back to business when he received a garnishment on his partnership.

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B6J (Off	icial Form 6J) (12/07)			13-32806
In re	Kevin A. Phelps Heather L. Phelps		Case No.	13-32000
		Debtor(s)		

## SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22	2C.	
☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complexpenditures labeled "Spouse."	ete a separat	e schedule of
1. Rent or home mortgage payment (include lot rented for mobile home)	\$	4,000.00
a. Are real estate taxes included? Yes X No	<u></u>	
b. Is property insurance included? Yes X No		
2. Utilities: a. Electricity and heating fuel	\$	300.00
b. Water and sewer	\$	55.00
c. Telephone	\$	49.00
d. Other See Detailed Expense Attachment	\$	378.00
3. Home maintenance (repairs and upkeep)	\$	50.00
4. Food	\$	487.48
5. Clothing	\$	65.00
6. Laundry and dry cleaning	\$	43.33
7. Medical and dental expenses	\$	20.00
8. Transportation (not including car payments)	\$	433.33
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	0.00
10. Charitable contributions	\$	0.00
11. Insurance (not deducted from wages or included in home mortgage payments)		
a. Homeowner's or renter's	\$	0.00
b. Life	\$	0.00
c. Health	\$	0.00
d. Auto	\$	184.00
e. Other	\$	0.00
12. Taxes (not deducted from wages or included in home mortgage payments)		
(Specify)	\$	0.00
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
a. Auto	\$	0.00
b. Other See Detailed Expense Attachment	\$	111.00
14. Alimony, maintenance, and support paid to others	\$	0.00
15. Payments for support of additional dependents not living at your home	\$	0.00
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	0.00
17. Other	\$	0.00
Other	\$	0.00
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)	\$	6,176.14
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:		
20. STATEMENT OF MONTHLY NET INCOME	Ф	0.707.44
a. Average monthly income from Line 15 of Schedule I	\$	6,797.14
b. Average monthly expenses from Line 18 above	\$	6,176.14
c. Monthly net income (a. minus b.)	\$	621.00

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# SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) Detailed Expense Attachment

## **Other Utility Expenditures:**

Cell Phone	\$	280.00
Cable	<u> </u>	49.00
Internet	\$	49.00
Total Other Utility Expenditures	\$	378.00

### **Other Installment Payments:**

Grooming & Personal Hygiene	\$	60.00
Misc. Expenses	<del></del>	50.00
Vehicle Payment \$340 will be paid off in Dec.	\$	1.00
Total Other Installment Payments	\$	111.00

Adams Jehans & Assarbano PKLP 231 Wylderose Dr. Midlothian, VA 23113 Doc 2 Ko File (1954) 20/13 Entered 05/20/13 18:44:43 Desc Main NE อางากอาชา Ridge Geo 13 Dof 13
Menomonee Falls, WI 53051

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Bank Of America Po Box 982235 El Paso, TX 79998 Pnc Mortgage 6 N Main St Dayton, OH 45402

Cap One Po Box 85520 Richmond, VA 23285 Riley, Wiltshire & Brassington 1230 Alverser Drive Suite 102 Midlothian, VA 23113

Commonwealth of VA-Tax P.O. Box 2156 Richmond, VA 23218-2156 Samuel I White, P. C. 1804 Staples Mill Rd, Ste 200 Richmond, VA 23230

Credit Adjustment Bo 306 East Grace Street Richmond, VA 23219 Samuel I. White, P.C. 5040 Corporate Woods Drive Suite 120 Virginia Beach, VA 23462

Discover Fin Svcs Llc Po Box 15316 Wilmington, DE 19850 Suntrust Bank 7455 Chancellor Dr Orlando, FL 32809

Discover Personal Loan Po Box 30954 Salt Lake City, UT 84130 Vw Credit Inc 1401 Franklin Blvd Libertyville, IL 60048

Gecrb/Jcp Po Box 984100 El Paso, TX 79998

Gecrb/Lowes Po Box 965005 Orlando, FL 32896

Internal Revenue Service Insolvency Unit Post Office Box 21126 Philadelphia, PA 19114